

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 1800

To protect the personal security of Americans by ensuring the imprisonment  
of violent criminals.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 26 (legislative day, JANUARY 25), 1994

Mr. GRAMM (for himself, Mr. HELMS, Mr. SMITH, and Mr. BURNS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To protect the personal security of Americans by ensuring  
the imprisonment of violent criminals.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Predator Criminal  
5   Imprisonment Act”.

### 6   **SEC. 2. FINDINGS.**

7       The Congress finds that—

8               (1) the most important domestic function of the  
9       Federal Government is the protection of the personal  
10      security of individual Americans through the enact-

1       ment and enforcement of laws against criminal be-  
2       havior;

3           (2) the criminal justice system in America is  
4       failing to achieve its basic objective of protecting the  
5       innocent and punishing the guilty; and

6           (3) in America today, there exists crime without  
7       punishment. Failure to remedy this imperils the  
8       public safety, disrupts domestic tranquility, and  
9       threatens the rule of law.

## 10       **TITLE I—INCREASED USE OF** 11       **EXISTING PRISON SPACE**

### 12       **SEC. 101. APPROPRIATE REMEDIES FOR PRISON OVER-** 13       **CROWDING.**

14       (a) AMENDMENT OF TITLE 18, UNITED STATES  
15       CODE.—Subchapter C of chapter 229 of part 2 of title  
16       18, United States Code, is amended by adding at the end  
17       the following new section:

#### 18       **“§ 3626. Appropriate remedies with respect to prison** 19       **crowding**

20       “(a) REQUIREMENT OF SHOWING WITH RESPECT TO  
21       THE PLAINTIFF IN PARTICULAR.—

22           “(1) HOLDING.—A Federal court shall not hold  
23       prison or jail crowding unconstitutional under the  
24       eighth amendment except to the extent that an indi-  
25       vidual plaintiff inmate proves that the crowding

1 causes the infliction of cruel and unusual punish-  
2 ment of that inmate.

3 “(2) RELIEF.—The relief in a case described in  
4 paragraph (1) shall extend no further than nec-  
5 essary to remove the conditions that are causing the  
6 cruel and unusual punishment of the plaintiff  
7 inmate.

8 “(b) INMATE POPULATION CEILINGS.—

9 “(1) REQUIREMENT OF SHOWING WITH RE-  
10 SPECT TO PARTICULAR PRISONERS.—A Federal  
11 court shall not place a ceiling on the inmate popu-  
12 lation of any Federal, State, or local detention facil-  
13 ity as an equitable remedial measure for conditions  
14 that violate the eighth amendment unless crowding  
15 is inflicting cruel and unusual punishment on par-  
16 ticular identified prisoners.

17 “(2) RULE OF CONSTRUCTION.—Paragraph (1)  
18 shall not be construed to have any effect on Federal  
19 judicial power to issue equitable relief other than  
20 that described in paragraph (1), including the re-  
21 quirement of improved medical or health care and  
22 the imposition of civil contempt fines or damages,  
23 where such relief is appropriate.

24 “(c) PERIODIC REOPENING.—Each Federal court  
25 order or consent decree seeking to remedy an eighth

1 amendment violation shall be reopened at the behest of  
 2 a defendant for recommended modification at a minimum  
 3 of 2-year intervals.”.

4 (b) APPLICATION OF AMENDMENT.—Section 3626 of  
 5 title 18, United States Code, as added by paragraph (1),  
 6 shall apply to all outstanding court orders on the date of  
 7 enactment of this Act. Any State or municipality shall be  
 8 entitled to seek modification of any outstanding eighth  
 9 amendment decree pursuant to that section.

10 (c) TECHNICAL AMENDMENT.—The subchapter anal-  
 11 ysis for subchapter C of chapter 229 of title 18, United  
 12 States Code, is amended by adding at the end the follow-  
 13 ing new item:

“3626. Appropriate remedies with respect to prison crowding.”.

## 14 **TITLE II—CONSTRUCTION OF** 15 **REGIONAL PRISONS FOR VIO-** 16 **LENT CRIMINALS**

### 17 **SEC. 201. REGIONAL PRISONS FOR VIOLENT CRIMINALS** 18 **AND VIOLENT CRIMINAL ALIENS.**

19 (a) DEFINITIONS.—In this section—

20 “child abuse offense” means an offense under  
 21 Federal or State law that constitutes sexual exploi-  
 22 tation of children or selling or buying of children  
 23 within the meaning of chapter 110 of title 18,  
 24 United States Code.

1           “firearm offense” means an offense under Fed-  
2           eral or State law committed while the offender is in  
3           possession of a firearm or while an accomplice of the  
4           offender, to the knowledge of the offender, is in pos-  
5           session of a firearm.

6           “crime of violence” means a felony offense  
7           under Federal or State law that is a crime of vio-  
8           lence within the meaning of section 16 of title 18,  
9           United States Code.

10          “qualifying prisoner” means—

11               (A) an alien who is in this country illegally  
12               or unlawfully and who has been convicted of a  
13               crime of violence (as defined in section  
14               924(c)(3) of title 18, United States Code) or a  
15               serious drug offense (as defined in section  
16               924(e)(2)(A) of title 18, United States Code);  
17               and

18               (B) a violent criminal.

19          “sex offense” means an offense under Federal  
20          or State law that constitutes aggravated sexual  
21          abuse, sexual abuse, sexual abuse of a minor or  
22          ward, or abusive sexual contact within the meaning  
23          of chapter 109A of title 18, United States Code.

24          “violent criminal”—

1 (A) means a person convicted under Fed-  
2 eral law of an offense described in, under the  
3 circumstances described in, the provisions of  
4 section 924 (c) or (e) of title 18 or section  
5 994(h) of title 28, United States Code, or under  
6 State law for the same or a similar offense; and

7 (B) insofar as any of the circumstances de-  
8 scribed in an offense described in subparagraph  
9 (A) is the prior conviction of an offense, in-  
10 cludes a person who had been adjudicated as a  
11 juvenile delinquent by reason of the commission  
12 of an act that, if committed by an adult, would  
13 constitute such an offense.

14 (b) CONSTRUCTION OF PRISONS.—

15 (1) IN GENERAL.—The Attorney General shall,  
16 after consultation with State correctional adminis-  
17 trators, construct and operate a minimum of 10  
18 regional prisons, situated throughout the United  
19 States, each containing space for at least 2,500 in-  
20 mates. The Attorney General may contract with the  
21 private sector to design, construct or provide any  
22 services associated with the regional prisons. At least  
23 75 percent of the overall capacity of such prisons in  
24 the aggregate shall be dedicated to qualifying pris-  
25 oners from qualifying States. In making a deter-

1 mination as to the location of regional prisons, the  
2 Attorney General shall give appropriate consider-  
3 ation to the feasibility of converting Federal correc-  
4 tional complexes currently in the planning or con-  
5 struction phase.

6 (2) CONSIDERATION OF COST-EFFECTIVE AL-  
7 TERNATIVES AND STATE AND LOCAL RE-USE  
8 PLANS.—(A) In determining where to locate any of  
9 the regional prisons authorized in paragraph (1),  
10 and in accordance with the Department of Justice’s  
11 duty to review and identify a use for any portion of  
12 an installation closed pursuant to title II of the De-  
13 fense Authorization Amendments and Base Closure  
14 and Realignment Act (Public Law 100–526) and the  
15 Defense Base Closure and Realignment Act of 1990  
16 (part A of title XXIX of Public Law 101–510) the  
17 Attorney General shall consider—

18 (i) whether using any portion of a closed  
19 military installation in the region or military in-  
20 stallation scheduled to be closed in the region  
21 provides a cost-effective alternative to the pur-  
22 chase of real property or construction of new  
23 prison facilities;

24 (ii) whether such use is consistent with a  
25 reutilization and redevelopment plan. Consent

1 must be obtained from the local re-use author-  
2 ity for the military installation, recognized and  
3 funded by the Secretary of Defense, before the  
4 Attorney General may proceed with plans for  
5 the design or construction of a prison author-  
6 ized in paragraph 1; and

7 (iii) giving priority consideration to any in-  
8 stallation located in a rural area whose closure  
9 under this title will have a substantial adverse  
10 impact on the economy of the communities for  
11 the economic recovery of such communities  
12 from such closure.

13 (B) Before proceeding with plans for the design  
14 or construction of a prison authorized in paragraph  
15 (1), the Attorney General shall submit to Congress  
16 a report explaining the basis of the decision on  
17 where to locate the new prison facility.

18 (C) If the Attorney General decides not to uti-  
19 lize any portion of a closed military installation or  
20 an installation scheduled to be closed for locating a  
21 regional prison, the report shall include an analysis  
22 of why installations in the region, the use of which  
23 as a prison would be consistent with a reutilization  
24 and redevelopment plan, do not provide a cost-effec-



1       tive alternative to the purchase of real property or  
2       construction of new facilities.

3           (D) The Attorney General shall obtain all infor-  
4       mation necessary to determine whether any portion  
5       of a closed military installation in the region or mili-  
6       tary installation scheduled to be closed in the region  
7       is a cost-effective alternative to the purchase of real  
8       property or construction of new prison facilities.

9       (c) ACCEPTANCE OF PRISONERS.—Any qualifying  
10      State may apply to the Attorney General to accept any  
11      qualifying prisoner. If, in the Attorney General's judgment  
12      there are likely to be more qualifying prisoners than there  
13      is space available, then to the extent that the Attorney  
14      General deems it practicable, the Attorney General should  
15      seek to allocate space among qualifying States in a propor-  
16      tion similar to the number of qualifying prisoners held by  
17      that State in relation to the total number of qualifying  
18      prisoners from qualifying States.

19      (d) QUALIFYING STATE.—

20           (1) IN GENERAL.—The Attorney General shall  
21      not certify a State as a qualifying State under this  
22      section unless the State is providing—

23           (A) truth in sentencing with respect to any  
24           felony crime of violence involving the use or at-  
25           tempted use of force against a person, or use of

1 a firearm against a person for which a maxi-  
2 mum sentence of 5 years or more is authorized  
3 that is consistent with that provided in the Fed-  
4 eral system in chapter 229 of title 18, United  
5 States Code, which provides that defendants  
6 will serve at least 85 percent of the sentence or-  
7 dered and which provides for a binding sentenc-  
8 ing guideline system in which sentencing  
9 judges' discretion is limited to ensure greater  
10 uniformity in sentencing;

11 (B) pretrial detention similar to that pro-  
12 vided in the Federal system under section 3142  
13 of title 18, United States Code;

14 (C) sentences for firearm offenders where  
15 death or serious bodily injury results, mur-  
16 derers, sex offenders, and child abuse offenders  
17 that, after application of relevant sentencing  
18 guidelines, result in the imposition of sentences  
19 that are at least as long as those imposed under  
20 Federal law (after application of relevant sen-  
21 tencing guidelines); and

22 (D) suitable recognition for the rights of  
23 victims, including consideration of the victim's  
24 perspective at all appropriate stages of criminal  
25 proceedings.

1           (2) DISQUALIFICATION.—The Attorney General  
2       shall withdraw a State’s status as a qualifying State  
3       if the Attorney General finds that the State no  
4       longer appropriately provides for the matters de-  
5       scribed in paragraph (1) or has ceased making sub-  
6       stantial progress toward attaining them, in which  
7       event the State shall no longer be entitled to the  
8       benefits of this section, except to the extent the At-  
9       torney General otherwise directs.

10          (3) WAIVER.—The Attorney General may  
11       waive, for no more than one year, any of the require-  
12       ments of this subsection with respect to a particular  
13       State if the Attorney General certifies that, in the  
14       Attorney General’s judgment, there are compelling  
15       law enforcement reasons for doing so. Any State  
16       granted any such waiver shall be treated as a quali-  
17       fying State for all purposes of this subtitle, unless  
18       the Attorney General otherwise directs.

1 **TITLE III—EFFECTIVE MANDA-**  
2 **TORY MINIMUM PRISON SEN-**  
3 **TENCES**

4 **SEC. 301. MANDATORY PRISON TERMS FOR POSSESSION OR**  
5 **DISCHARGE OF A FIREARM DURING A CRIME**  
6 **OF VIOLENCE OR DRUG TRAFFICKING CRIME.**

7 Section 924(c)(1) of title 18, United States Code, is  
8 amended by inserting after the first sentence the follow-  
9 ing: “Except to the extent a greater minimum sentence  
10 is otherwise provided by the preceding sentence or by any  
11 other provision of this subsection or any other law, a per-  
12 son who, during and in relation to any crime of violence  
13 or drug trafficking crime (including a crime of violence  
14 or drug trafficking crime which provides for an enhanced  
15 punishment if committed by the use of a deadly or dan-  
16 gerous weapon or device) for which a person may be pros-  
17 ecuted in a court of the United States, uses or carries a  
18 firearm, shall, in addition to the punishment provided for  
19 such crime of violence or drug trafficking crime—

20 “(A) be punished by imprisonment for not less  
21 than 10 years;

22 “(B) if the firearm is discharged, be punished  
23 by imprisonment for not less than 20 years; and

1           “(C) if the death of a person results, be pun-  
2       ished by death or by imprisonment for not less than  
3       life.”.

4   **SEC. 302. MANDATORY MINIMUM PRISON SENTENCES FOR**  
5                   **THOSE WHO SELL ILLEGAL DRUGS TO MI-**  
6                   **NORS OR WHO USE MINORS IN DRUG TRAF-**  
7                   **FICKING ACTIVITIES.**

8       (a) DISTRIBUTION TO PERSONS UNDER AGE 18.—  
9   Section 418 of the Controlled Substances Act (21 U.S.C.  
10 859) is amended—

11           (1) in subsection (a) (first offense) by inserting  
12       after the second sentence “Except to the extent a  
13       greater minimum sentence is otherwise provided by  
14       section 401(b), a term of imprisonment under this  
15       subsection in a case involving distribution to a per-  
16       son under 18 years of age by a person 21 or more  
17       years of age shall be not less than 10 years. Not-  
18       withstanding any other provision of law, the court  
19       shall not place on probation or suspend the sentence  
20       of any person sentenced under the preceding sen-  
21       tence.”; and

22           (2) in subsection (b) (second offense) by insert-  
23       ing after the second sentence “Except to the extent  
24       a greater sentence is otherwise authorized by section  
25       401(b), a term of imprisonment under this sub-

1 section in a case involving distribution to a person  
2 under 18 years of age by a person 21 or more years  
3 of age shall be a mandatory term of life imprison-  
4 ment. Notwithstanding any other provision of law,  
5 the court shall not place on probation or suspend the  
6 sentence of any person sentenced under the preced-  
7 ing sentence.”.

8 (b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF  
9 AGE.—Section 420 of the Controlled Substances Act (21  
10 U.S.C. 861) is amended—

11 (1) in subsection (b) by adding at the end the  
12 following: “Except to the extent a greater minimum  
13 sentence is otherwise provided, a term of imprison-  
14 ment of a person 21 or more years of age convicted  
15 under this subsection shall be not less than 10 years.  
16 Notwithstanding any other provision of law, the  
17 court shall not place on probation or suspend the  
18 sentence of any person sentenced under the preced-  
19 ing sentence.”; and

20 (2) in subsection (c) (penalty for second of-  
21 fenses) by inserting after the second sentence the  
22 following: “Except to the extent a greater minimum  
23 sentence is otherwise provided, a term of imprison-  
24 ment of a person 21 or more years of age convicted  
25 under this subsection shall be a mandatory term of

1 life imprisonment. Notwithstanding any other provi-  
2 sion of law, the court shall not place on probation  
3 or suspend the sentence of any person sentenced  
4 under the preceding sentence.”.

5 **SEC. 303. LIFE IMPRISONMENT WITHOUT RELEASE FOR**  
6 **DRUG FELONS AND VIOLENT CRIMINALS**  
7 **CONVICTED A THIRD TIME.**

8 Section 401(b)(1)(A) of the Controlled Substances  
9 Act (21 U.S.C. 841(b)(1)(A)) is amended by striking “If  
10 any person commits a violation of this subparagraph or  
11 of section 418, 419, or 420 after two or more prior convic-  
12 tions for a felony drug offense have become final, such  
13 person shall be sentenced to a mandatory term of life im-  
14 prisonment without release and fined in accordance with  
15 the preceding sentence.” and inserting “If any person  
16 commits a violation of this subparagraph or of section  
17 418, 419, or 420 (21 U.S.C. 859, 860, and 861) or a  
18 crime of violence after 2 or more prior convictions for a  
19 felony drug offense or crime of violence or for any com-  
20 bination thereof have become final, such person shall be  
21 sentenced to not less than a mandatory term of life impris-  
22 onment without release and fined in accordance with the  
23 preceding sentence. For purposes of this subparagraph,  
24 the term ‘crime of violence’ means an offense that is a  
25 felony punishable by a maximum term of imprisonment

1 of 10 years or more and has as an element the use, at-  
2 tempted use, or threatened use of physical force against  
3 the person or property of another, or by its nature involves  
4 a substantial risk that physical force against the person  
5 or property of another may be used in the course of com-  
6 mitting the offense.”.

7       **TITLE IV—VIOLENT CRIME**  
8       **REDUCTION TRUST FUND**

9       **SEC. 401. PURPOSES.**

10       The Congress declares that it is essential to—

11               (1) fully fund the control and prevention of vio-  
12       lent crime authorized in this Act over the next 5  
13       years;

14               (2) ensure orderly limitation and reduction of  
15       Federal Government employment, as recommended  
16       by the Report of the National Performance Review,  
17       conducted by the Vice President; and

18               (3) apply sufficient amounts of the savings  
19       achieved by limiting Government employment to the  
20       purpose of ensuring full funding of this Act over the  
21       next 5 years.

22       **SEC. 402. REDUCTION OF FEDERAL FULL-TIME EQUIVA-**  
23       **LENT POSITIONS.**

24       (a) DEFINITION.—In section, “agency” means an  
25       Executive agency as defined in section 105 of title 5, Unit-



1 ed States Code, but does not include the General Account-  
2 ing Office.

3 (b) LIMITATIONS ON FULL-TIME EQUIVALENT POSI-  
4 TIONS.—The President, through the Office of Manage-  
5 ment and Budget (in consultation with the Office of Per-  
6 sonnel Management), shall ensure that the total number  
7 of full-time equivalent positions in all agencies does not  
8 exceed—

- 9 (1) 2,095,182 during fiscal year 1994;
- 10 (2) 2,044,100 during fiscal year 1995;
- 11 (3) 2,003,846 during fiscal year 1996;
- 12 (4) 1,963,593 during fiscal year 1997; and
- 13 (5) 1,923,339 during fiscal year 1998.

14 (c) MONITORING AND NOTIFICATION.—The Office of  
15 Management and Budget, after consultation with the Of-  
16 fice of Personnel Management, shall—

- 17 (1) continuously monitor all agencies and make  
18 a determination on the first date of each quarter of  
19 each applicable fiscal year of whether the require-  
20 ments under subsection (b) are met; and
- 21 (2) notify the President and the Congress on  
22 the first date of each quarter of each applicable fis-  
23 cal year of any determination that any requirement  
24 of subsection (b) is not met.

1 (d) COMPLIANCE.—If at any time during a fiscal  
 2 year, the Office of Management and Budget notifies the  
 3 President and the Congress that any requirement under  
 4 subsection (b) is not met, no agency may hire any em-  
 5 ployee for any position in such agency until the Office of  
 6 Management and Budget notifies the President and the  
 7 Congress that the total number of full-time equivalent po-  
 8 sitions for all agencies equals or is less than the applicable  
 9 number required under subsection (b).

10 (e) WAIVER.—Any provision of this section may be  
 11 waived upon—

12 (1) a determination by the President of the ex-  
 13 istence of war or a national security requirement; or

14 (2) the enactment of a joint resolution upon an  
 15 affirmative vote of three-fifths of the Members of  
 16 each House of the Congress duly chosen and sworn.

17 **SEC. 403. CREATION OF VIOLENT CRIME REDUCTION**  
 18 **TRUST FUND.**

19 (a) ESTABLISHMENT OF ACCOUNT.—

20 (1) IN GENERAL.—Chapter 11 of title 31, Unit-  
 21 ed States Code, is amended by adding at the end the  
 22 following new section:

23 **“§ 1120. Violent crime reduction trust fund**

24 “(a) ESTABLISHMENT.—There is established a sepa-  
 25 rate account in the Treasury, known as the ‘Violent Crime

1 Reduction Trust Fund’, into which shall be deposited defi-  
2 cit reduction achieved by section 402 of the Predator  
3 Criminal Imprisonment Act sufficient to fund that Act as  
4 prescribed by subsection (b).

5 “(b) TRANSFERS.—On the first day of the following  
6 fiscal years (or as soon thereafter as possible for fiscal  
7 year 1994), the following amounts shall be transferred  
8 from the general fund to the Violent Crime Reduction  
9 Trust Fund—

10 “(1) for fiscal year 1994, \$720,000,000;

11 “(2) for fiscal year 1995, \$2,423,000,000;

12 “(3) for fiscal year 1996, \$4,267,000,000;

13 “(4) for fiscal year 1997, \$6,313,000,000; and

14 “(5) for fiscal year 1998, \$8,545,000,000.

15 “(c) USE.—Notwithstanding any other law—

16 “(1) the amounts in the Violent Crime Reduc-  
17 tion Trust Fund may be appropriated exclusively for  
18 the purposes authorized in the Predator Criminal  
19 Imprisonment Act and the Violent Crime Control  
20 and Law Enforcement Act of 1993;

21 “(2) the amounts in the Violent Crime Reduc-  
22 tion Trust Fund and appropriations under para-  
23 graph (1) of this section shall be excluded from, and  
24 shall not be taken into account for purposes of, any  
25 budget enforcement procedures under the Congres-

1 sional Budget Act of 1974 or the Balanced Budget  
2 and Emergency Deficit Control Act of 1985; and

3 “(3) for purposes of this subsection, ‘appropria-  
4 tions under paragraph (1)’ mean amounts of budget  
5 authority not to exceed the balances of the Violent  
6 Crime Reduction Trust Fund and amounts of out-  
7 lays that flow from budget authority actually appro-  
8 priated.”.

9 (2) TECHNICAL AMENDMENTS.—

10 (A) The chapter analysis for chapter 11 of  
11 title 31, United States Code, is amended by  
12 adding at the end the following new item:

“1120. Violent Crime Reduction Trust Fund.”.

13 (B) Section 1321(a) of title 31, United  
14 States Code, is amended by adding at the end  
15 the following new paragraph:

16 “(91) Violent Crime Reduction Trust Fund.”.

17 (b) REQUIREMENT FOR THE PRESIDENT TO REPORT  
18 ANNUALLY ON THE STATUS OF THE ACCOUNT.—Section  
19 1105(a) of title 31, United States Code, is amended by  
20 adding at the end the following new paragraphs:

21 “(30) information about the Violent Crime Re-  
22 duction Trust Fund, including a separate statement  
23 of amounts in that trust fund.

24 “(31) an analysis displaying by agency pro-  
25 posed reductions in full-time equivalent positions

1 compared to the current year's level in order to com-  
2 ply with section 402 of the Predator Criminal Im-  
3 prisonment Act.''.  
4

5 **SEC. 404. CONFORMING REDUCTION IN DISCRETIONARY**  
6 **SPENDING LIMITS.**

7 The Director of the Office of Management and Budg-  
8 et shall, upon enactment of this Act, reduce the discre-  
9 tionary spending limits set forth in section 601(a)(2) of  
10 the Congressional Budget Act of 1974 (2 U.S.C.  
11 665(a)(2)) for fiscal years 1994 through 1998 as follows:

12 (1) For fiscal year 1994, for the discretionary  
13 category: \$720,000,000 in new budget authority and  
14 \$314,000,000 in outlays.

15 (2) For fiscal year 1995, for the discretionary  
16 category: \$2,423,000,000 in new budget authority  
17 and \$2,330,000,000 in outlays.

18 (3) For fiscal year 1996, for the discretionary  
19 category: \$4,267,000,000 in new budget authority  
20 and \$4,184,000,000 in outlays.

21 (4) For fiscal year 1997, for the discretionary  
22 category: \$6,313,000,000 in new budget authority  
23 and \$6,221,000,000 in outlays.

24 (5) For fiscal year 1998, for the discretionary  
25 category: \$8,545,000,000 in new budget authority  
and \$8,443,000,000 in outlays.



S 1800 IS——2